

## HOUSE BILL NO. 246

INTRODUCED BY K. BALES, ANDERSEN, BARRETT, BECK, BUTCHER, CLANCY, E. CLARK, COLE,  
CURTISS, DALE, DAVIES, DEVLIN, EKEGREN, ELLIS, ESP, HEDGES, R. HOLDEN, JAYNE, KASTEN,  
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ROME, SCHRUMPF, STEINBEISSER, STORY, TASH, TESTER, B. THOMAS, TROPILA, WAITSCHIES,  
WANZENRIED, WITT, WOLERY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A PERSON OWNING, CONTROLLING, OR  
IN POSSESSION OF LIVESTOCK OR A PERSON WHO OWNS PROPERTY ~~IN AN OPEN RANGE OR A HERD~~  
~~DISTRICT~~ DOES NOT HAVE A DUTY TO PREVENT LIVESTOCK FROM WANDERING ON HIGHWAYS ~~IN~~  
~~OPEN RANGE OR IN A HERD DISTRICT~~; PROVIDING THAT A PERSON OWNING, CONTROLLING, OR IN  
POSSESSION OF LIVESTOCK OR A PERSON OWNING PROPERTY ~~IN AN OPEN RANGE OR HERD~~  
~~DISTRICT~~ IS NOT ~~LIABLE~~ SUBJECT TO LIABILITY FOR DAMAGES OR INJURY CAUSED BY AN ACCIDENT  
INVOLVING A MOTOR VEHICLE AND LIVESTOCK UNLESS THE OWNER OF THE LIVESTOCK OR  
PROPERTY WAS GROSSLY NEGLIGENT OR ENGAGED IN INTENTIONAL MISCONDUCT; ~~AMENDING~~  
~~SECTION 81-4-203, MCA~~; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. No duty of livestock owner or property owner to prevent livestock  
from wandering on highways -- open range. (1) Except as provided in Title 60, chapter 7, part 2, for the  
highways referred to in 60-7-201, a person owning, controlling, or in possession of livestock in an open  
range or a person owning property in an open range:~~

~~(a) does not have the duty to keep livestock off any highway, as defined in 60-1-103(19), that  
traverses, is located on, or is adjacent to the open range; and~~

~~(b) is not liable for damages to any property or for injury to a person caused by an accident  
involving a motor vehicle and livestock that occurs on a highway, as defined in 60-1-103(19), that  
traverses, is located on, or is adjacent to open range.~~

~~(2) As used in this section, "person" means an individual, partnership, corporation, limited liability~~

company, or association.

~~NEW SECTION. Section 2. No duty of livestock owner or property owner to prevent livestock from wandering on highways -- herd district.~~ (1) Except as provided in Title 60, chapter 7, part 2, for the highways referred to in 60-7-201, a person owning, controlling, or in possession of livestock or a person owning property in a herd district:

~~(a) does not have the duty to keep livestock off any highway, as defined in 60-1-103(19), that traverses, is located on, or is adjacent to a herd district; and~~

~~(b) is not liable for damages to any property or for injury to a person caused by an accident involving a motor vehicle and livestock that occurs on a highway, as defined in 60-1-103(19), that traverses, is located on, or is adjacent to a herd district.~~

~~(2) As used in this section, "person" means an individual, partnership, corporation, limited liability company, or association.~~

NEW SECTION. Section 1. Limits on liability of livestock owner or property owner in open range or herd district ACCIDENTS INVOLVING MOTOR VEHICLES AND LIVESTOCK. (1) Except as provided in Title 60, chapter 7, part 2, for the highways referred to in 60-7-201, a person owning, controlling, or in possession of livestock or a person owning property has no duty to keep livestock from wandering on highways, ~~as defined in 60-1-103(19),~~ and is not liable SUBJECT TO LIABILITY for damages to any property or for injury to a person caused by an accident involving a motor vehicle and livestock ~~as provided in 60-7-203 and [sections 1 and 2]~~ UNLESS THE OWNER OF THE LIVESTOCK OR PROPERTY WAS GROSSLY NEGLIGENT OR ENGAGED IN INTENTIONAL MISCONDUCT.

(2) As used in this section, THE FOLLOWING DEFINITIONS APPLY:

(A) "HIGHWAY" HAS THE MEANING PROVIDED IN 60-1-103(19);

(B) "LIVESTOCK" HAS THE MEANING PROVIDED IN 15-1-101; AND

(C) "person" "PERSON" means an individual, partnership, corporation, limited liability company, LIMITED LIABILITY PARTNERSHIP, or association.

~~Section 4. Section 81-4-203, MCA, is amended to read:~~

~~"81-4-203. Open range defined. In 81-4-204, 81-4-207, and 81-4-208, and [section 1], the term~~

1 "open range" means all lands in the state of Montana ~~that are not enclosed by a fence of not less than at~~  
2 ~~least two wires in good repair. The term "open range" includes all highways outside of private enclosures~~  
3 ~~and used by the public whether or not the same highways have been formally dedicated to the public."~~

4  
5 NEW SECTION. Section 2. Codification instruction. ~~(1) [Section 1] is intended to be codified as~~  
6 ~~an integral part of Title 81, chapter 4, part 2, and the provisions of Title 81, chapter 4, part 2, apply to~~  
7 ~~[section 1].~~

8 ~~—— (2) [Section 2] is intended to be codified as an integral part of Title 81, chapter 4, part 3, and the~~  
9 ~~provisions of Title 81, chapter 4, part 3, apply to [section 2].~~

10 ~~(3) [Section 3] [SECTION 1] is intended to be codified as an integral part of Title 27, chapter 1, part~~  
11 ~~7, and the provisions of Title 27, chapter 1, part 7, apply to [section 3] [SECTION 1].~~

12  
13 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

14  
15 NEW SECTION. Section 4. Applicability. [This act] applies to accidents involving livestock and  
16 motor vehicles on or after [the effective date of this act].

17 - END -